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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,763	05/04/2001	Daniel A. Fratello	5544.00	2651
20686	7590	01/26/2004	EXAMINER	
DORSEY & WHITNEY, LLP INTELLECTUAL PROPERTY DEPARTMENT 370 SEVENTEENTH STREET SUITE 4700 DENVER, CO 80202-5647			STINSON, FRANKIE L	
			ART UNIT	PAPER NUMBER
			1746	
DATE MAILED: 01/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/849,763

Applicant(s)

FRATELLO ET AL.

Examiner

FRANKIE L. STINSON

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 25-31, 33, 35-38, 41-88, 94, 95 and 97-105 is/are pending in the application.
4a) Of the above claim(s) 41-88 and 98-105 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-31 and 35-38 is/are allowed.
- 6) ☒ Claim(s) 1-7, 18, 19, 22, 23, 94 and 95 is/are rejected.
- 7) ☒ Claim(s) 8-17 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The indicated allowability of claims 1-7, 18, 19, 22 and 23 is withdrawn in view of the newly discovered reference(s) to Lange and a broader reading of the claims.

Rejections based on the newly cited reference(s) follow.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lange.

Re claim 1, for example, note that Lange discloses a washing system comprising a frame 14, a movable platform, 38 see fig .3, having a left end and a right end, the movable platform being (i) capable of vertical movement relative to the frame, (ii) suspended from above the frame proximate one end, the top end and (iii) supported from below the frame generally proximate the opposite end, the bottom end and one or more nozzles 200, the one or more nozzle operatively coupled to the movable platform. As for the intended use of washing a vehicle, the same has not been afforded the weight of a limitation since the body of the claim fails to recite any limitations that give life and meaning to the intended use of washing a vehicle (see MPEP 2111.02 where the is stated that "in apparatus, article and composition claims, intended use must result in a structural difference between the claimed invention and the prior art to in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim").

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4 and 5, 18, 19, 22, 23, 94 and 95 rejected under 35 U.S.C. 103(a) as being unpatentable over Lange.

Claims 4 and 5 define over Lange only in the recitation of the non-extensible elongated member being a belt or chain (Lange discloses a cable). However, as per MPEP 2144.06, the same are deemed to be the functional equivalents of each other and thusly no patentably distinction is deemed to exist.

6. Claims 18, 19, 22, 23, 94 and 95 rejected under 35 U.S.C. 103(a) as being unpatentable over Lange in view of either Japan 5-105040 or Payne et al.

Claims 18, 19, 22, 23, 94 and 95 define over Lange only in the recitation of the turbo nozzle. Japan'040 and Payne disclose the use of turbo nozzle in a washing system. It therefore would have been obvious to one having ordinary skill in the art to modify the nozzle in Lange, to be turbo nozzles as taught by either Japan'040 or Payne for the purpose of intensifying the cleaning process.

7. Claims 8-17, 20 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 25-31, 33, 35, 36, 37, 38 and 97 are allowed.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKIE L. STINSON whose telephone number is (571) 272-1308. The examiner can normally be reached M-F from 5:30 a.m. to 2:00 p.m. and some Saturdays from 5:30 a.m. to 11:30 a.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to TECHNOLOGY CENTER 1700 (571) 272-1700.

Any inquiry for missing parts of this Office Action (copies of references, pages, forms etc.), contact the OFFICE MANAGER Ms. Sandra Sewell (571) 272-1047.

fls



FRANKIE L. STINSON
Primary Examiner
Art Unit 1746